MT LEGISLATIVE HISTORY

Chapter 194 1957

Bill H (S) 122 Original bill & hist. ___C

H. Committee on Judiciary

Hearing Date(s) Feb 26 ✓C

Mar 02 ✓C

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Date Out _____ ___C

S. Committee on Highways & Transportation

Hearing Date(s) Feb 14 ✓C

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Senate Highways and Transportation - Feb. 14, 1959
SRJ

Senator Harken wondered if this would be strictly a day time operation. Mr. Gottwig thought it would.

Senator Valiton stated that if there was a murderer loose in a community the sheriff is authorized to deputize people. He said he felt the sheriffs have used this quite wisely through the years. He said most of them follow the practice of deputizing a number of deputies. There is no difference here.

Senate Bill No. 170 was discussed and Mr. Gottwig explained some proposed amendments. Following some further discussion, Senator Harken made a motion that Senate Bill No. 170 Do Pass As Amended, as shown on the attached committee report. Senator Nutter seconded the motion, which was passed by unanimous vote.

Senate Bill No. 122 was discussed and Senator Moritz made a motion that Senate Bill No. 122 Do Pass. Senator Valiton seconded the motion, which was then passed by unanimous vote.

Senator Cole made a motion that Senate Bill No. 29 be sent out without recommendation. Senator Hofland seconded the motion, which was then passed by unanimous vote. The committee recommends it out and that it be placed on General File.

Following a motion duly made, seconded and passed, the meeting was adjourned.

Charles A. Rowe
Chairman

February 26, 1957

JUDICIARY COMMITTEE

Meeting of the House Judiciary Committee was held upon adjournment of the House on Monday, February 25, 1957. Upon roll call all members were present except Cerovski, Siderius, Cunningham and Barnard.

Chairman Hooks presided.

Senate Bill No. 20 was considered at this time. Mr. R. C. Dean, Executive Secretary of the Parmecutical Association spoke on this bill. He stated that they are proponents of this bill to try to have the legislature pass a bill to carry pharmacy as a profession. He stated that it is a small bill to clear the practice of pharmacy as a profession.

Motion was made by Anderson and seconded by Gray that Substitute Senate Bill No. 20 Be Concurred In. Motion carried.

Senate Bill No. 49 was considered at this time. It was decided that SenateBill No. 49 be passed for the day.

Senate Bill No. 179 was considered at this time. Senator Carney of Daniels County spoke briefly on this bill.

Senate Bill No. 64 was considered at this time. Senator Mahoney of Garfield County spoke on this bill

Motion was made by Felt and seconded by Daniels that Senate Bill No. 64 Be Not Concurred In. Motion carried.

Motion was made by McGarvey that S. B. 179 Be Concurred In. Motion was then made by McKenna that S. B. 179 Be Not Concurred In Substitute motion to all motions pending was made by Felt and seconded by Gray that S. B. 179 be passed for the day. Motion carried.

Motion was made by Anderson and seconded by Gerard that S. B. 107 through 110 be put in a sub-committee. Motion carried. Mr. Hooks appointed Mr. Gray, McGarvey and Felt to this committee.

Motion was made by Anderson and seconded by Gerard that sub-committee be appointed to study S. B. 84, S. B. 85 and S. B. 122. Motion carried. Mr. Hooks appointed Mr. Daniels, McKenna and Anderson to this committee.

Meeting adjourned.

Peter E. Hooks

CHAIRMAN, JUDICIARY COMMITTEE

March 2, 1957

JUDICIARY COMMITTEE

Meeting of the House Judiciary Committee was held upon recess of the House on March 2, 1957. Chairman Hooks presided.

Upon roll call all members were present except Cerovski and McGarvey.

Senate Bill No. 122 was considered at this time. Senator Moritz appeared on behalf of this bill. Brief discussion followed. Motion was then made by McGarvey and seconded by McKenna that Senate Bill No. 122 As Amended Be Concurred In. Mr. Felt made substitute motion that the bill Be Concurred In. Motion was seconded by Mr. Gray. Mr. Felt then withdrew his motion. Vote was then taken on the proposed amendment of Mr. McGarvey. Motion carried. Motion was then made by McGarvey and seconded by Felt that Senate Bill No. 122 As Amended Be Concurred In. Motion carried.

SenateBill No. 55 was considered at this time. Motion was made by McGarvey and seconded by Anderson that Senate Bill No. 55 Be Not Concurred In. Motion carried.

Senate Bill No. 85, Senate Bill No. 84, and Senate Bill No. 83 were reconsidered at this time. Motion was made by Berg and seconded by McKenna that Senate Bill No. 84 be amended and As So Amended Be Concurred In. Motion carried.

Motion was then made by McGarvey and seconded by Gray that Senate Bill No. 85 be amended and As So Amended Be Concurred In. Motion carried.

Motion was then made by Berg and seconded by McKenna that Senate Bill No. 83 be amended and as so Amended Be Concurred In. Motion carried.

Senate Bill No. 169 was considered at this time. Motion was made by McGarvey and seconded by McKenna that S. B. 169 Be Concurred In. Motion was then withdrawn by McGarvey. Motion was then made by McGarvey that the bill Be Amended. Substitute motion was then made by Anderson and seconded by Thomas that S. B. 169 Be Not Concurred In. Motion lost.

Substitute motion made by Anderson and seconded by Felt was then voted on. This motion was that the bill Be Concurred In. Motion carried.

Motion was then made by McKenna and seconded by Anderson that S. B. 200 Be Concurred In. Motion carried.

Motion was made by Anderson and seconded by Nelding that the meeting adjourn. Meeting adjourned.

Robert T. Hooks

of any housing project which the authority is empowered by this act to undertake."

Amending clause.

Section 6. That section 35-125 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Additional powers—to agree to conditions relating to prevailing wages and labor standards.

"Section 35-125. (5309.25) **Additional Powers of Authority.** A housing authority shall have the power (notwithstanding anything to the contrary contained in this act or in any other provision of law) *to agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, and* to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractor comply with requirements as to minimum *salaries or* wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to the financial aid of the project."

Stipulations in contracts for subcontractor compliance.

Amending clause—adding new section.

Section 7. That title 35 of the Revised Codes of Montana, 1947, be, and the same is hereby amended by incorporating therein, following section 35-125 thereof, a new section to be known as section 35-125.1 to read as follows:

Payments by housing authorities to local bodies.

"Section 35-125.1. Payments by housing authorities to local bodies. Notwithstanding any limitations in this or any other law, any housing authority may agree to make such payments to the county, city or municipality, the state, or any political subdivision or agency thereof (which payments such bodies are hereby authorized to accept) as the authority finds consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this housing authorities law."

Severability clause.

Section 8. **Severability.** Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Act controlling.

Section 9. **Act Controlling.** Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

Repealing clause.

Section 10. **Repeal.** All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 11. **Effective Date.** This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1957.

CHAPTER 194

An Act to Amend Section 39 of Chapter 263 of the Session Laws of the Thirty-fourth Legislative Assembly of the State of Montana, 1955, Relating to Persons Operating Motor Vehicles While Under the Influence of Intoxicating Liquor or of Drugs; Providing for the Use of Chemical Analysis to Measure the Degree of Intoxication of Drivers; Increasing Minimum Fine for First Offense, Making Imprisonment Mandatory for Second or Third Offenses, of Driving Under the Influence of Intoxicating Liquor or of Drugs; Providing That Revocation of License Will Commence Upon Date of Conviction; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing for Effective Date of Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 39 of chapter 263 of the session laws of the thirty-fourth legislative assembly of the State of Montana, 1955, be, and the same is hereby amended to read as follows:

Driving or control under influence forbidden.

"Section 39. **Persons Under the Influence of Intoxicating Liquor or of Drugs.**

"(a) It is unlawful and punishable as provided in paragraph *(d)* of this section for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any *motor* vehicle *upon the highways* of this state.

Amount of alcohol in blood at time of violations—presumptions.

"(b) *In any criminal prosecution for a violation of paragraph (a) of this section relating to driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, shall give rise to the following presumptions:*

Not under influence.

1. If there was at that time 0.05 percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor:

May be considered in determination.

2. If there was at that time in excess of 0.05 percent but less than 0.15 percent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant:

Under influence.

3. If there was at that time 0.15 percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor:

Other evidence allowed.

4. The foregoing provisions of paragraph (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor:

Driving under influence of drugs forbidden.

"*(c)* It is unlawful and punishable as provided in paragraph *(d)* of this section for any person who is an habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a *motor* vehicle to drive a *motor* vehicle within this state. The fact that any person charged with a violation of this paragraph is or has been entitled to use such a drug under the laws of this state shall not constitute a defense against any charge of violating this paragraph.

Penalties.

"*(d)* Every person who is convicted of a violation of this section *shall* be punished by imprisonment *in the county or city jail* for not more than six (6) months or by a fine of not less than *one hundred dollars ($100.00)* nor more than five hundred dollars ($500.00) or by both such fine and imprisonment. On a second conviction he shall be punished by imprisonment *in the county or city jail* for not less than *ten (10)* days nor more than *six (6) months, to which may be added, at* the discretion of the court a fine of not less than three hundred dollars ($300.00) nor more than *five hundred dollars ($500.00). On the third or subsequent conviction he shall be punished by imprisonment for a term of not less than thirty (30) days nor more than one (1) year, to which may be added at the discretion of the court a fine of not less than five hundred ($500.00) nor more than one thousand dollars ($1,000.00).*

Third and subsequent conviction.

"The board shall forthwith revoke the license or permit to drive and operating privilege and any nonresident operating privilege of any person convicted under this section; providing, however, that the board shall have the authority after such revocation upon proper application and proper showing made to the board by the party whose license has been revoked to issue to said party a restricted operator's or chauffeur's license allowing the said party to drive a motor vehicle to and from and in the course of his business only, and such restricted license shall remain in effect at the will of said board."

Revocation of license or permit.

Proviso—restricted license.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Severability clause.

Section 3. If any clause, sentence, section, paragraph or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid or inoperative.

Effective July 1, 1957.

Section 4. This act shall be in full force and effect from and after July 1, 1957.

Approved March 9, 1957.

CHAPTER 195

An Act Authorizing the Recovery of Civil Damages Due to the Malicious or Wilful Destruction of Property of Municipal Corporations, Counties, Cities, Towns, School Districts, Departments of the State of